HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.4485 of 2000

Dated 20th day of June, 2007

Between:

Gangula Kondala Rao ..
Petitioner

And

The Special Deputy Collector,
Tribal Welfare, K.R.Puram,
West Godavari District
and another ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the Notice in S.R.No.36/98, dated nil, issued by the 1st respondent, as arbitrary and illegal.

The petitioner asserts that he purchased an extent of 0.30 hectares of land in R.S.No.99/4 situated in Paidipaka village, Polavaram Mandal, from one Vattikuti Rama Rao, who is a non-tribal, by virtue of possessory agreement of sale dated 1.6.1969, and since then he has been in possession and enjoyment of it. Thereafter, he gave an application to the Settlement Officer requesting him to grant ryotwari patta, but the application was dismissed on 31.8.1977. Against which, the petitioner preferred an appeal before the Director of Settlements and the same was pending. In the meanwhile, the Special Deputy Tahsildar initiated proceedings under Section 3(2)(a) of A.P. Scheduled Areas Land Transfer Regulation, 1959 as amended by 1/70 ((for brevity "A.P.S.A.L.T. Regulation") and the same was numbered as S.R.No.113 of 1980 before the Special Deputy Collector, who after issuing a notice and hearing all the parties concerned, passed an order dated 13.11.1981 holding that the complaint is frivolous and there is no contravention of any of the provisions of A.P.S.A.L.T. Regulation. When the said order was produced before the Director of Settlements, he passed an order dated 2.9.1997 granting ryotwari patta in favour of the petitioner. However, the Special Deputy Tahsildar once again initiated proceedings under the same Regulation in S.R.No.36 of 1998 and the Special Deputy Collector, based on the order, dated 2.9.1997, issued the impugned Notice under

Section 7 of the A.P.S.A.L.T. Regulation directing the petitioner to appear before him on 25.3.2000 along with relevant records.

In spite of the fact that notices were served on the respondents, they have not chosen to file any counter affidavit.

Heard the learned counsel for both the parties and perused the material placed on record.

This Court, following the judgment in **Chintalapati Ramalinga Raju Vs. District Collector, Eluru, West Godavari District**[1], held in a number cases that repeated initiation of proceedings under the A.P.S.A.L.T. Regulation is without jurisdiction. When once the Special Deputy Collector had passed an order holding that there is no contravention of any of the provisions of the A.P.S.A.L.T. Regulation, a regular appeal is provided for. If the respondents are so aggrieved, they should have preferred an appeal against the order, dated 13.11.1981 of the Special Deputy Collector, but they did not do so and allowed the order to become final. Further, on the basis of the said order only, the Director of Settlements granted ryotwari patta in favour of the petitioner. Hence, the 1st respondent-Special Deputy Collector ought not to have taken cognizance of the second complaint given by the Special Deputy Tahsildar under Section 3(2)(a) of A.P.S.A.L.T. Regulation. Therefore, the Notice dated Nil in S.R.No.36 of 1998 issued by the 1st respondent is without jurisdiction and is liable to be set aside.

In the result, the writ petition is allowed and the impugned Notice is set aside. No costs.

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20.06.2007

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[1] 200(4) ALD 443